

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ZMCC PROPERTIES LLC,

Plaintiff,

v.

Case No. 19-12428

PRIMEONE INSURANCE COMPANY,

Defendant.

ORDER GRANTING DEFENDANT’S MOTION TO COMPEL

Plaintiff ZMCC Properties LLC brings this action for breach of contract and reformation. (ECF No. 28, PageID.736-47.) Defendant PrimeOne Insurance Co. moves to compel Non-Parties Alan Markovitz, ABCDE Land LLC, and AM & LN Properties LLC to comply with subpoenas Defendant issued on February 23, 2021, under Federal Rule of Civil Procedure 45. (ECF No. 51.)

Non-Parties filed a timely response to Defendant’s motion. (ECF No. 53.) They explain that, due to an administrative error, the subpoenas were forwarded to an attorney who no longer represents Non-Parties. (*Id.*, PageID.1724.) In the response, Non-Parties do not dispute the validity of Defendant’s subpoena, nor do they contend that the discovery requests are irrelevant, overly burdensome, or seek privileged information. (*Id.*) Instead, because of the claimed administrative error, Non-Parties ask for additional time to investigate available records and obtain the documents and information Defendant sought in its subpoena. (*Id.*) Defendant did not file a reply opposing Non-Parties’ request for additional time.

Defendant's motion is well supported, and Non-Parties do not oppose production of the information Defendant requested in its February 23 subpoena. Thus, the court will grant Defendant's motion to compel, and it will provide Non-Parties until May 21, 2021, to comply with the subpoena. If, by May 21, Non-Parties fail to produce the documents and information requested in the subpoena, the court will consider imposing on Non-Parties contempt sanctions under Federal Rule of Civil Procedure 45(g). See 9A Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure § 2465 (3d ed. 2020) ("There is no doubt . . . that there is judicial power to punish the failure to comply with a valid subpoena as a contempt of court."); *Bariteau v. Krane*, 206 F.R.D. 129, 131 (W.D. Ky. 2001) ("Courts have often found a person in contempt for refusing to comply with a validly issued subpoena without objecting to it or making a motion to quash."). Accordingly,

IT IS ORDERED that Defendant's "Motion to Compel Non-Parties' Compliance with Subpoena" (ECF No. 51) is GRANTED. Non-Parties Alan Markovitz, ABCDE Land LLC, and AM & LN Properties LLC are DIRECTED to produce all documents and information responsive to Defendant's subpoena (ECF No. 51-2) by **May 21, 2021**.

s/Robert H. Cleland /
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: May 3, 2021

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, May 3, 2021, by electronic and/or ordinary mail.

s/Lisa Wagner /
Case Manager and Deputy Clerk
(810) 292-6522